

# COURT NEWS

SPECIAL EDITION

D E C E M B E R  
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## 2004 Legislative Summary

During the second year of the 2003–2004 Legislative Session, the Legislature and Governor enacted over 100 bills that affect the courts or are of general interest to the court community. Brief descriptions of these measures follow, arranged according to subject matter. The index, beginning on page 10, specifies whether the measure is of primary interest to judges, court administrators, and/or practitioners in trial courts (T), appellate courts (A), or both.

The effective date of legislation is January 1, 2005, unless otherwise noted. Urgency measures normally take effect upon enactment, and some measures have delayed operative dates. Those dates are included where applicable.

The bill descriptions are intended to serve only as a guide to identifying bills of interest; they are not a complete statement of statutory changes. Code section references are to the sections that are of most interest to the courts; not all sections are cited.

Bill texts can be examined in their chaptered form in *West's California Legislative Service* or *Deering's Legislative Service*, where they are published by chapter number. In addition, chaptered bills and legislative committee analyses can be accessed on the Internet at [www.leginfo.ca.gov/bilinfo.html](http://www.leginfo.ca.gov/bilinfo.html). Individual chapters may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, California 95814, 916-445-2323.

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### BUDGET

**2004–2005 BUDGET TRAILER BILL**  
**SB 1102, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 227**  
**GOV VARIOUS SECTIONS**  
Extends the court security fee until June 30, 2005. Requires the Judicial Council to submit the trial court budget request to both the Governor and the Legislature. Establishes that the state appropriations limit, in addition to the normal annual budget process, shall be a means to provide funding to trial courts. Requires each superior court to report to the Judicial Council on or before October 1, 2004, and semiannually thereafter, and the Judicial Council to report to the Legislature on or before December 1, 2004, and semiannually thereafter, regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings. Requires

the Judicial Council to provide an annual status report to the chair of the budget committee in each house of the Legislature and the chair of the Joint Legislative Budget Committee with regard to the California Case Management System and Court Accounting and Reporting System.

**2004–2005 BUDGET ACT**  
**SB 1113, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 208**  
**URGENCY, EFFECTIVE JULY 31, 2004**  
Among other things, requires the Judicial Council to provide the Department of Finance with a report by September 1, 2005, detailing the number of services of process billed to the courts under Statutes 2002, chapter 1009; the cost of these services; and information on any agreements reached with local law enforcement agencies to provide this service free of charge or at a reduced rate. Requires the Judicial Council to provide the Department of Finance with a report by Sep-

tember 1, 2005, detailing, by court, the level of reimbursements provided for court costs associated with prisoner hearings under Penal Code sections 4750–4755 and 6005. Requires the Judicial Council to adopt a rule of court to establish a process for courts to seek reimbursement for the extraordinary costs of homicide trials.

### CIVIL LAW AND PROCEDURE

**COMMON INTEREST DEVELOPMENTS: DISPUTE RESOLUTION**  
**AB 1836, HARMAN, CH. 754**  
**CIV VARIOUS SECTIONS; CCP 383**  
Revises and recasts the provisions in the Davis-Stirling Common Interest Development Act relating to dispute resolution. Specifies that a common interest development association and an owner of a separate interest may

## ACKNOWLEDGMENTS

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enforce governing documents other than the declaration. Requires an association to provide a fair, reasonable, and expeditious procedure for resolving specified disputes, as defined by certain minimum standards, and provides a procedure for associations that do not have a procedure of their own that meets the minimum standards, among them that the member not be charged a fee to participate in the process. Requires that the association provide notice of its dispute resolution process.

### STRUCTURED SETTLEMENT TRANSFERS

*AB 2161, REYES, CH. 582*  
*INS 10136, 10137, 10138, 10139, 10139.5*

Revises the structured settlement transfer law to, among other things, expand existing disclosure obligations to include the total amount the seller would receive under the structured settlement contract if the seller did not transfer the contract, eliminate the 2005 sunset provision with respect to court approval of transfer agreements, delete obsolete language conditioning the court approval requirement on the passage of federal legislation that has since been enacted, eliminate the requirement of court approval for transfers if the seller resides outside of California, and restrict the Attorney General filing requirement before court approval to transactions in which the seller is a California resident.

### SECURITIES: CORPORATE LIABILITY

*AB 2167, CORREA, CH. 575*  
*CCP 1029.8; CORP 25501.5, 25506*

Authorizes a person who purchases a security from or sells a security to a broker-dealer who does not have a certificate from the Commissioner of Corporations authorizing the person to act in that capacity to bring an action for rescission of the sale or purchase or for specified damages. Authorizes the court to award reasonable attorney fees and costs to a prevailing plaintiff and extends the application of treble damages to these actions. Extends the time for a plaintiff to file a claim to five years after the violation or within two years of the discovery of the violation.

### TANNING FACILITIES

*AB 2193, NATION, CH. 758*  
*B&P 22706, 22708*

Prohibits a person younger than 14 years of age from using a tanning device. Makes a tanning facility that violates a provision of the Filante Tanning Facility Act liable for a civil penalty not to exceed \$2,500 per day.

### ATTORNEY FEES

*AB 2347, MADDOX, CH. 328*  
*CIV 1717.5*

Increases attorney fees awardable in contract actions based on a book account.

### CONTROLLED SUBSTANCES: UNLAWFUL DETAINER

*AB 2523, FROMMER, CH. 304*  
*H&S 11571.1*

Reauthorizes until January 1, 2010, a Superior Court of Los Angeles County pilot project that allows city prosecutors or city attorneys to file unlawful detainer actions to evict drug dealers and users from rental properties, while allowing law-abiding tenants to remain under "partial evictions." Makes several modifications to the program and extends the modified program to the courts of San Diego and Alameda Counties. Requires the Judicial Council to submit reports to the Senate and Assembly Judiciary Committees on or before April 15, 2007, and on or before April 15, 2009, evaluating the merits of the pilot programs.

### CIVIL ACTION PROCEDURES

*AB 3078, COMMITTEE ON JUDICIARY, CH. 171*  
*CCP 116.410, 411.20, 1005, 2024, 2034, 2016.060*

Revises the timelines for filing motions in a civil action by requiring a party to serve and file before hearing (1) moving and supporting papers at least 16 court days prior, instead of the current 21 calendar days; (2) opposing papers at least 9 court days prior, instead of 10 calendar days; and (3) reply papers at least 5 court days prior, instead of 5 calendar days. Clarifies discovery cutoff dates in civil actions and clarifies that an emancipated minor may be a party to a small claims action. Ensures that the party or the party's attorney is notified when a check for a filing fee has been returned for nonpayment or is in an amount less than the required fee.

### CIVIL DISCOVERY

*AB 3081, COMMITTEE ON JUDICIARY, CH. 182*  
*VARIOUS CODES*  
*DELAYED, EFFECTIVE*  
*JULY 1, 2005*

Enacts nonsubstantive reorganization of the Civil Discovery Act, as recommended by the California Law Revision Commission.

### FINANCING RECOVERY OF PUBLIC UTILITIES

*SB 772, BOWEN, CH. 46*  
*CIV 955.1, 3440.1; COM 9109; PUC VARIOUS SECTIONS*  
*URGENCY, EFFECTIVE JUNE 7, 2004*

Provides for expedited and limited judicial review by the California Supreme Court of specified Public Utilities Commission decisions and sunsets this provision on January 1, 2008.

### TENANCY: MASKING OF UNLAWFUL DETAINER RECORDS

*SB 1145, BURTON, CH. 568*  
*CIV 827, 1950.5, 1954.52, 1954.53; CCP 1161.2; GOV 7060.4, 12955*

Extends indefinitely the requirement that a landlord must give an additional 30 days' notice of a rent increase (for a total of 60 days' notice) when the increase is in excess of 10 percent of the rent and the prohibition of a landlord's making a decision to rent to a tenant based upon the prospective tenant's source of income. Makes several other minor and noncontroversial changes, including clarifying the provisions governing the masking of unlawful detainer records.

### LENDER NAMES

*SB 1150, BURTON, CH. 197*  
*B&P 14700 ET SEQ.*

Among other things, requires any individual who uses a lender's trade name or a consumer's loan amount or account number in a written solicitation to provide a disclaimer that the solicitor is not associated with the lender. Authorizes the recovery of actual damages and injunctive relief for a violation of these provisions. Allows the court to award the prevailing party reasonable attorney fees and costs.

### ABANDONED NEWBORNS: SAFE SURRENDER

*SB 1413, BRULTE, CH. 103*  
*H&S 1255.7; PEN 271.5*

Provides that no person who, without compensation and in good faith, provides assistance for the purpose of effecting the safe surrender of a minor 72 hours old or younger shall be civilly liable for injury to, or the death of, the minor child as a result of any of his or her acts

or omissions. Defines "assistance," for the purposes of this bill, as transporting the minor child to the safe surrender site as a person with lawful custody, or transporting or accompanying the parent or person with lawful custody at the request of the parent to effect the safe surrender, or performing any other act in good faith for the purpose of effecting the safe surrender of the minor. Provides that this immunity does not apply to willful acts or omissions constituting gross negligence, recklessness, or willful misconduct.

### COMPUTER SPYWARE

*SB 1436, MURRAY, CH. 843*  
*B&P 22947 ET SEQ.*

Establishes the Consumer Protection Against Computer Spyware Act, which prohibits an unauthorized person or entity from installing software on a consumer's computer that would take control of the computer, modify its security settings, collect the user's personally identifiable information, interfere with its own removal, or otherwise deceive the authorized user.

### COMMERCIAL E-MAIL ADVERTISEMENTS

*SB 1457, MURRAY, CH. 571*  
*B&P 17529.5*

Conforms existing law with recently enacted federal law. Allows the state Attorney General or the recipient of an unsolicited commercial e-mail advertisement to bring an action to recover damages of \$1,000 for each unsolicited e-mail (up to \$1 million per incident). Authorizes the court to award a prevailing plaintiff reasonable attorney fees and costs.

### STATUTE OF LIMITATIONS: DAMAGES FOR SEXUAL ABUSE OF A MINOR

*SB 1678, DUNN, CH. 741*  
*CCP 340.35*

Revives a cause of action, provided an action is brought before January 1, 2006, for the sexual abuse of a minor if any complaint, information, or indictment was filed in a criminal case based upon that abuse but the criminal case was dismissed or overturned under the decision of the U.S. Supreme Court in *Stogner v. California* (2003) 123 S.Ct. 2446, which held that the revival of the criminal action after the criminal statute of limitations has expired constitutes an unconstitutional ex post facto law.



## COURT FACILITIES

### SEISMIC SAFETY: UNREINFORCED MASONRY BUILDINGS

AB 2533, SALINAS, CH. 659  
GOV 8875.8

Revises the requirement that an owner of a building post a specified sign regarding unreinforced masonry and requires every lease entered into after January 1, 2005, for an unreinforced masonry building to contain a specified statement, except as specified, and subjects an owner who is subject to, but does not comply with, the new sign requirements to administrative penalties and injunctive relief. States the intent of the Legislature to improve the public's awareness of potentially hazardous buildings so that occupants and passers-by are better equipped to protect themselves in the event of an earthquake.

### SEISMIC SAFETY: POTENTIALLY HAZARDOUS BUILDINGS

AB 3032, YEE, CH. 308  
GOV 8875.8, 8875.9

Revises the requirements for signs that must be posted by all owners of certain buildings in specified regions to identify all potentially hazardous buildings and the mitigation programs for those buildings.

### FACILITIES FUNDS; UTILITIES; JUDICIAL COUNCIL

SB 749, ESCUTIA, CH. 249  
GOV 70357, 70379;  
W&I 366.28  
URGENCY, EFFECTIVE  
AUGUST 23, 2004

Establishes the Court Facilities Architecture Revolving Fund, a continuously appropriated fund that will allow funds appropriated for capital projects to be expended beyond the budget year. Revises the way in which counties calculate their utilities costs for the purpose of payments to the Court Facilities Trust Fund. Extends the Judicial Council's deadline until January 1, 2005, to adopt a rule of court concerning the placement of dependent children after the termination of parental rights.

## COURT OPERATIONS

### FIREARMS

AB 2431, STEINBERG, CH. 602  
PEN 12021.3, 12028, 12028.5,  
12028.7, 12030, 12084;  
W&I 8107

Requires a person requesting the return of a firearm that is in the custody of a court or law enforcement agency to apply to the Department of Justice to determine if that person is eligible to possess a firearm. Provides for the disposal of firearms belonging to persons prohibited from possessing

firearms. Provides that an individual who is applying for a background check to retrieve a firearm that has come into the custody or control of a court or law enforcement agency shall be exempt from specified fees if the court or agency determines the firearm was reported stolen to a law enforcement agency before the date the firearm came into custody or control of the court or law enforcement agency or within five business days of the firearm's being stolen from its owner. Requires the court or agency to notify the Department of Justice of this fee exemption in a manner prescribed by the department.

### SUBORDINATE JUDICIAL OFFICERS; JUVENILE COURTS; TRIAL COURT FUNDING

AB 3079, COMMITTEE ON JUDICIARY, CH. 811  
VARIOUS CODES

Authorizes the compensation of retired subordinate judicial officers sitting on assignment in a manner analogous to retired judges. Allows extension of temporary restraining orders during court emergencies. Eliminates appellate filing fees in specified mental health and juvenile cases. Provides Court Appointed Special Advocates with access to social workers' reports to the court. Clarifies the scope of a rule of court concerning attorney contact information in dependency cases.

### PROFESSIONS AND VOCATIONS: COURT REPORTS TO LICENSING BOARDS

SB 1549, FIGUEROA, CH. 691  
B&P VARIOUS SECTIONS  
Requires a court, on or after January 1, 2006, that has been notified that the defendant is a licensed professional engineer or land surveyor to report to the licensing board within 30 days of its occurrence any criminal conviction and any civil action judgment, settlement, or arbitration award against a licensee or certificate holder in the amount of \$50,000 or greater. Requires, on or after January 1, 2006, a California court that reports to the board a conviction of or judgment against a licensee or certificate holder to also provide a copy of the documentation relating to that conviction or judgment.

## CRIMINAL LAW AND PROCEDURE

### APPEARANCES OF VICTIMS AT HEARINGS

AB 2, BOGH, CH. 1  
PEN 1191.15, 3041, 3043.2,  
3043.6; W&I 1767.9  
URGENCY, EFFECTIVE  
JANUARY 21, 2004  
Expands the type of information that victims may submit

during sentencing or parole hearings to specifically include a statement stored on a CD-ROM, a DVD, or any other recording medium acceptable to the court.

### VICTIMS OF CRIME: ACCOMMODATIONS FOR DEPENDENT PERSONS

AB 20, LIEBER, CH. 823  
VARIOUS CODES  
Extends the court's existing discretion to make accommodations for children testifying in court to include dependent persons with substantial cognitive impairments.

### .50 CALIBER BMG RIFLES

AB 50, KORETZ, CH. 494  
PEN VARIOUS SECTIONS  
Adds the .50 caliber BMG rifle to the list of dangerous weapons and creates new felonies for the manufacture, sale, or importation without a permit of this firearm. Makes it a misdemeanor to possess a .50 BMG rifle without registration.

### INCARCERATED DEFENDANT: AUDIO-VIDEO APPEARANCES

AB 99, COX, CH. 293  
PEN 977.2  
Expands the existing authority of the California Department of Corrections to arrange for two-way audio-video communication between the defendant and the courtroom to include all court appearances except the preliminary hearing, trial, judgment, sentencing, and motions to suppress, rather than only the initial court appearance and arraignment, in any case in which a defendant is charged with a felony or misdemeanor and is incarcerated in state prison. Retains the court's authority to issue an order requiring the defendant to be physically present in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom.

### SEX OFFENDERS: INFORMATION ON THE INTERNET

AB 488, PARRA, CH. 745  
PEN 290.46  
Requires the Department of Justice to make information about registered sex offenders available to the public on the Internet and to update that information on an ongoing basis. Provides that for certain offenders the posted information shall include the offender's home address. Provides that offenders with less serious sexual offenses may apply to the Department of Justice for exclusion from the Web site. Makes it a misdemeanor for a sex offender who is required to register to enter the Web site and provides for civil liability for the misuse of sex offender information from the Web site. Makes it a misdemeanor to use information from the Web site to commit a misdemeanor and a felony to use it to commit a felony.

### SEXUALLY VIOLENT PREDATORS: PLACEMENT

AB 493, SALINAS, CH. 222  
W&I 6608.5

Requires a nonparolee who is conditionally released under the sexually violent predator provisions to be placed in the county of domicile (where the person has his or her permanent home and principal residence) unless the court finds that extraordinary circumstances require placement outside the county of domicile. Requires consideration of concerns of the victims or their next of kin.

### RECORDS: ADMISSIBLE HEARSAY

AB 883, RUNNER, CH. 65  
EVID 550.1; PEN 11106.3  
Provides that electronic reproductions of files, records, writings, photographs, fingerprints, or other instruments in the official custody of a criminal justice agency that were microphotographed or otherwise reproduced in a lawful manner shall be admissible to the same extent and under the same circumstances as the original file, record, writing, or other instrument would be admissible.

### LOCAL EMERGENCY TELEPHONE NUMBER SYSTEM: 911

AB 911, LONGVILLE, CH. 295  
PEN 653y  
Makes it an infraction to use or knowingly allow the use of the 911 telephone system for purposes other than for an emergency. Makes a parent or legal guardian of a minor jointly and severally liable with the minor child for the fine imposed for this violation.

### FALSE USE OF A UNIFORM, BADGE, OR IDENTIFICATION CARD

AB 1153, BERMUDEZ, CH. 22  
PEN 538e, g  
URGENCY, EFFECTIVE  
MARCH 5, 2004  
Makes it a misdemeanor to wear the uniform of an officer or member of a fire department with the intent to fraudulently impersonate such a person. Makes it a misdemeanor to make or sell any badge that falsely purports to be that of an officer or member of a fire department, or to exhibit, use, or sell an identification card of a city, county, or state employee.

### SUBPOENAS: RETURN OF DOCUMENTS

AB 1249, PACHECO, CH. 162  
EVID 1560; PEN 1326  
Clarifies that in a criminal case documents requested through a subpoena duces tecum must be returned to the court and not to the requesting attorney. Provides that the court may hold an in camera hearing to determine whether the defense is entitled to receive the documents.

#### TRANSFER OF PROBATION CASES

*AB 1306, LENO, CH. 30  
PEN 1203.9*

*URGENCY, EFFECTIVE  
APRIL 13, 2004*

Provides that if a person is sentenced under Proposition 36, jurisdiction may, at the discretion of the sentencing judge, be transferred to the defendant's county of permanent residence.

#### SOLICITATION OF BAIL SERVICES

*AB 1694, WIGGINS, CH. 165  
PEN 160*

Makes it a misdemeanor for a bail licensee to employ, engage, solicit, pay, or promise any payment, compensation, consideration, or thing of value to any person incarcerated in any prison, jail, or other place of detention for the purpose of that person's soliciting bail on behalf of the licensee.

#### PENALTIES FOR ILLEGAL DUMPING

*AB 1802, BOGH, CH. 137  
PEN 374.3*

Makes it an infraction to dump asphalt and concrete in certain locations. Increases the mandatory fine for unlawful dumping of commercial quantities of waste matter, rocks, or dirt.

#### SEIZURE OF BUSINESS RECORDS

*AB 1894, LONGVILLE, CH. 372  
PEN 1536.5*

Provides a procedure for an entity whose business records have been seized by a government agency to demand that the agency provide it copies of the documents seized within 10 court days. Establishes a procedure for the agency to petition the court for additional time if the seized records are too voluminous to be copied in the required time period. The court may grant the motion for additional time only if the agency establishes that producing copies of the records within the time period would create a hardship on the agency. If the court grants the motion, it shall make an order designating a time frame for the duplication and return of the business records, deferring to the entity the priority of the records to be duplicated and returned first.

#### DIVERSION FOR DEVELOPMENTALLY DISABLED DEFENDANTS

*AB 1956, WOLK, CH. 290  
PEN 1001.20, 1001.21,  
1001.22, 1001.23*

Broadens the application of the current statute authorizing diversion for mentally retarded defendants in certain misdemeanor cases to apply to persons with cognitive developmental disabilities.

#### BAIL FUGITIVE RECOVERY PERSONS ACT

*AB 2238, SPITZER, CH. 166  
PEN 1299.12, 1299.14*

Extends the sunset date from January 1, 2005, to January 1, 2010, for the Bail Fugitive Recovery Persons Act, which authorizes certain persons to apprehend, detain, or arrest a bail fugitive provided they meet specified requirements. Directs the California Research Bureau in the California State Library to conduct a study of the Bail Fugitive Recovery Persons Act, evaluating the training requirements and regulatory status for persons subject to the act and whether the provisions of the act have improved the process for the recovery of fugitives from bail, with a report to the Legislature no later than January 1, 2009.

#### HATE CRIMES: RELEASE CONDITIONS

*AB 2428, CHU, CH. 809  
PEN 422.95, 422.865, 422.96,  
3053.4*

Imposes conditions of probation, parole, and outpatient release on persons convicted of specified hate crimes and for the commission of any other crime motivated by hate. Requires a court that grants probation under any of these circumstances, absent compelling circumstances stated on the record, to make a protective order protecting the victim, known immediate family of the victim, or domestic partner of the victim from further acts of violence, threats, stalking, or harassment by the probationer, including any stay-away conditions, and to make obedience of that order a condition of probation.

#### NOTICE REGARDING SEXUALLY VIOLENT PREDATORS

*AB 2450, CANCIAMILLA,  
CH. 425  
W&I 6609.1*

Provides greater notice by the Department of Corrections to communities into which a patient may be released from the sexually violent predator program, particularly in cases where the patient is conditionally released with strict supervision.

#### SEX OFFENDER REGISTRATION: REQUIREMENTS

*AB 2527, FROMMER, CH. 429  
PEN 290*

Revises existing transient sex offender registration requirements in response to *People v. North* (2003) 112 Cal.App.4th 621. Requires registration once every 30 days instead of once every 60 days. Deletes the provision that if a transient changes the location where he or she is

physically present on a regular basis to a different jurisdiction within California, he or she must reregister in the new jurisdiction within 5 days of relocating. Provides that a transient shall inform law enforcement, in person or in writing, within 5 working days of his or her move out of California.

#### ELDER AND DEPENDENT ADULT ABUSE

*AB 2611, SIMITIAN, CH. 886  
PEN 368; W&I 15656, 15657,  
15657.5*

Increases criminal penalties relating to elder and dependent adult abuse and makes them applicable to a person who knew or reasonably should have known that the potential victim was an elder or dependent adult. Separates financial abuse from the current statute providing enhanced civil remedies to victims of elder or dependent adult abuse and applies a preponderance-of-evidence standard of proof for showing financial abuse, instead of the current clear and convincing evidence standard. Permits the court to require the defendant to receive appropriate counseling upon conviction as a condition of probation.

#### EVIDENCE REGARDING SEXUAL CONDUCT IN RAPE CASES

*AB 2829, BOGH, CH. 61  
EVID 782*

Requires that any affidavit filed with the court in connection with an offer of proof to determine the relevance of evidence regarding the sexual conduct of the complaining witness in a rape case be kept under seal pending a determination by the court as to whether the offer is sufficient. Requires the affidavit to be resealed upon that determination and provides specified persons access to that affidavit only if the defendant raises an issue on appeal or collateral review regarding the offer of proof.

#### ELDER ABUSE

*AB 3095, COMMITTEE ON  
AGING AND LONG-TERM  
CARE, CH. 893  
PEN 368*

Expands the crime of elder abuse to include a situation in which the person reasonably should have known that the victim was an elder or a dependent adult. Provides that in any case in which a person is convicted of violating these provisions, the court may order, as a condition of probation, that the defendant be placed in an appropriate counseling program. Requires the defendant to pay the expense of his or her participation in the counseling program, unless the court finds an inability to pay.

#### CONFIDENTIALITY IN POLICE REPORTS

*SB 58, JOHNSON, CH. 507  
PEN 964*

Requires the district attorney and the court in each county to establish a mutually agreeable procedure to protect personal information regarding any witness or victim contained in a police report, arrest report, or investigative report that is submitted to a court by a prosecutor in support of a criminal complaint, indictment, or information or by a prosecutor or law enforcement officer in support of a search warrant or an arrest warrant.

#### RESTITUTION

*SB 631, MCPHERSON, CH. 223  
GOV VARIOUS SECTIONS;  
PEN 1202.44*

*URGENCY, EFFECTIVE  
AUGUST 16, 2004*

Requires a defendant to submit a revised financial declaration to the court if there is any remaining unpaid balance on a restitution order or fine 120 days before the defendant's scheduled release from probation. Requires the court clerk to notify the California Victim Compensation and Government Claims Board within 90 days of an order of restitution being imposed when the defendant is ordered to pay restitution directly to the board. Requires the court to assess a probation or parole violation restitution fine in the same amount as the original restitution fine, which would become effective upon revocation of probation or parole. This fine may be waived only upon a finding of compelling and extraordinary reasons stated on the record.

#### BAIL SERVICES

*SB 761, MCPHERSON, CH. 104  
PEN 1278, 1287*

Requires every undertaking of bail to include the bail agent's license number and the name, address, and phone number of the agency, regardless of whether the owner is an individual, partnership, or corporation.

#### DISORDERLY CONDUCT

*SB 1484, ACKERMAN, CH. 666  
PEN 647, 647.7*

Creates a new disorderly conduct misdemeanor for concealed filming or photographing of a person for the purpose of recording the person in a state of undress, including where a roommate or cohabitant filmed, photographed, or recorded the victim.



INTERNET PIRACY

*SB 1506, MURRAY, CH. 617  
PEN 653aa*  
Makes it a misdemeanor for a person who electronically disseminates a commercial recording or audiovisual work to more than 10 other people to fail to disclose his or her true e-mail address and the title of the recording or audiovisual work. Requires a court to order the deletion or destruction of any electronic file containing a commercial recording or audiovisual work, the dissemination of which was the basis of the violation.

MENTALLY INCOMPETENT DEFENDANTS

*SB 1794, PERATA, CH. 486  
PEN 1369, 1370, 1370.01*  
Establishes standards and procedures for administering antipsychotic medication to persons found incompetent to stand trial. Requires mental health professionals appointed in felony or misdemeanor cases to report to the court, among other things, their opinion whether treatment with antipsychotic medications is medically appropriate and likely to restore the defendant to competence; whether the defendant has the competence or capacity to make medical decisions about antipsychotic medication; whether the defendant is a danger to self or others; and the likely or potential side effects of the medication, the expected efficacy of the medication, and possible alternative treatments. Establishes court procedures to be followed before ordering a mentally incompetent person confined in a state hospital to undergo forced antipsychotic medication.

DOMESTIC VIOLENCE

EVIDENCE

*AB 141, COHN, CH. 116  
EVID 1109*  
Expands the definition of domestic violence used for the purposes of a statutory exception to the evidentiary rule against admission of evidence of prior acts in order to admit evidence of the defendant's prior acts of domestic violence to prove the defendant's conduct.

ALAMEDA AND SOLANO COUNTIES: FEES FOR DOMESTIC VIOLENCE SERVICES

*AB 2010, HANCOCK, CH. 830  
GOV 26840.10, 26840.11*  
Authorizes the boards of supervisors of Alameda and Solano Counties to raise the fees for certified copies of marriage, birth, and death records to fund the coordination of domestic violence prevention, intervention, and prosecution efforts.

CIVIL DAMAGES

*AB 2018, CHU, CH. 299  
FAM 2603.5*  
Provides in any divorce proceeding that if there is a judgment for civil damages for an act of domestic violence perpetrated by one spouse against the other spouse, the court may enforce that judgment against the abusive spouse's share of community property.

BATTERING AND ITS EFFECTS

*SB 1385, BURTON, CH. 609  
EVID 1107; PEN 1473.5*  
Changes all references in the Evidence Code to "battered women's syndrome" to read "intimate partner battering and its effects." Permits denial of a new petition for a writ of habeas corpus only if the court previously found that the omission of expert testimony relating to battered women's syndrome or intimate partner battering and its effects at trial was not prejudicial and did not entitle the petitioner to the writ of habeas corpus. States that its changes to the writ provisions that take effect January 1, 2005, are not intended to expand the uses or applicability of expert testimony on battering and its effects that were in effect immediately before that date in criminal cases. Sunsets January 1, 2010.

NOTICE REGARDING FIREARMS

**RELINQUISHMENT**  
*SB 1391, ROMERO, CH. 250  
FAM 6240, 6389; PEN 13700*  
Provides that the Judicial Council protective order form provide notice to the respondent that he or she shall be required to relinquish possession or control of any firearms upon service of the protective order.

EMPLOYMENT

HEALTH CARE COVERAGE

*AB 254, MONTANEZ, CH. 64  
H&S 1373.621; INS 10116.5*  
Existing law requires any health care service plan contract or disability insurance policy that is issued, amended, delivered, or renewed in California on or after January 1, 1999, and that provides certain benefits under an employer-sponsored group plan for an employer subject to COBRA continuation coverage or under an employer group for which the plan or insurer is required to offer Cal-COBRA continuation coverage, to offer specified health coverage to former employees who were 60 years old or older on the date of employment termination. This bill makes these requirements applicable only to an individual who meets the eligibility requirements for continuation coverage before January 1, 2005.

STATE CONTRACTS FOR PERSONAL SERVICES

*AB 806, WIGGINS, CH. 26  
GOV 19134  
URGENCY, EFFECTIVE MARCH 17, 2004*  
Excludes contracts performed by employees of nonprofit organizations that are employed under a specified license, certificate, community rehabilitation plan, or a habilitation services program from requirements that, effective July 1, 2003, (1) require that state contracts for these types of services include provisions for employee wages to be valued at least 85 percent of the wages provided to state employees performing similar duties; (2) define "benefits" as also including retirement benefits, holiday pay, sick pay, and vacation pay, as provided; and (3) apply these provisions to wages and benefits of employees of subcontractors providing these services in state-leased facilities where the facility is at least 50,000 square feet in area and the state leases all of the occupied floorspace, as defined, of the facility.

SEXUAL HARASSMENT: TRAINING AND EDUCATION

*AB 1825, REYES, CH. 933  
GOV 12950.1*  
Requires employers with 50 or more employees to provide two hours of training and education to all supervisory employees, as specified, within one year of January 1, 2005, unless the employer has provided sexual harassment training and education to employees after January 1, 2003. Requires each employer to provide sexual harassment training and education to each supervisory employee once every two years, after January 1, 2006. Requires the state to incorporate this training into the 80 hours of training provided to all new supervisory employees, using existing resources. Provides that a claim that the training and education did not reach a particular individual does not automatically result in the liability of an employer for sexual harassment and that an employer's compliance with these provisions does not insulate the employer from liability for sexual harassment of any current or former employee or applicant. Specifies that the statute establishes a minimum threshold for training and education and that employers may provide training and education beyond that required by the statute to prevent and correct sexual harassment and discrimination.

HEALTH CARE AND INSURANCE BENEFITS

*AB 2208, KEHOE, CH. 488  
H&S 1374.58; INS 381.5, 10121.7*  
Requires a health care service plan and a health insurer to provide coverage to the registered domestic partner of an employee, subscriber, insured, or policyholder that is equal to the coverage it provides to the spouse of those persons.

COUNTY EMPLOYEES' DISABILITY RETIREMENT

*AB 2982, PACHECO, CH. 379  
GOV 31725.6, 31725.65*  
Requires the appropriate county agency, after the board of retirement makes the determination that a member of the retirement system has been incapacitated for the performance of his or her duties but is capable of performing other duties on or after January 1, 2004, to notify the member of suitable county positions and to consult with the member to develop a reemployment plan for approval by the member. Makes existing law that provides if a member of a county retirement system, without reasonable cause, refuses an offer of alternative work within one year after being determined to be eligible for a disability retirement allowance, the agency employing the member may have the member's disability allowance discontinued applicable only to members who were incapacitated before January 1, 2004.

RETIRED STATE EMPLOYEES

*SB 1439, SPEIER, CH. 398  
GOV 21224*  
Existing law authorizes a retired state employee to work for a state agency or other employer under the system for up to 960 hours in any calendar year, without reinstatement from retirement or loss or interruption of retirement benefits. This bill would make that authorization inapplicable if the retired employee within 12 months before that employment received unemployment insurance compensation following the termination of an appointment with the same employer.

EMPLOYEE IDENTITY PROTECTION

*SB 1618, BATTIN, CH. 860  
LAB 226*  
Requires the state or any city, county, city and county, district, or any other governmental entity, if it furnishes its employees with a check, draft, or voucher paying the employee's wages, to, by January 1, 2008, use no more than the last four digits of the employee's social security number or an employee identification number other than the social security number on that check, draft, or voucher.

## FAMILY LAW

### PATERNITY JUDGMENTS

*AB 252, JACKSON, CH. 849  
FAM 7575, 7634, 7635.5, 7645  
ET SEQ.*

Provides that a judgment or order establishing paternity may be set aside by the court, on motion by a party, if genetic testing indicates that the previously established father of a child is not the biological father of the child and other specified conditions are met. Requires the court when making a paternity judgment to inform the alleged father of his right to genetic testing, the ability to move to vacate an order within the two-year time period, and his potential inability to vacate a judgment after that time, even when genetic testing shows that he is not the biological father.

### FAMILY COURT RECORDS

*AB 782, KEHOE, CH. 45  
FAM 2024.5, 2024.6  
URGENCY, EFFECTIVE  
JUNE 7, 2004*

Authorizes parties in specified family law cases to request that pleadings containing financial information be sealed in the court files. Authorizes specified family law litigants to redact their social security numbers from specified materials filed with a court. Requires numerous family law form changes relative to these provisions. Requires the Judicial Council to make form changes, which must be in place by July 1, 2005, to advise those completing the forms that social security numbers can be redacted.

### CHILD CUSTODY: DRUG TESTING

*AB 1108, BERMUDEZ, CH. 19  
FAM 3041.5  
URGENCY, EFFECTIVE  
FEBRUARY 23, 2004*

Authorizes the court, in a child custody proceeding, to order a parent seeking custody or visitation to undergo drug testing under specified conditions. Addresses the holding in the decision of *Wainright v. Superior Court* (2000) 84 Cal.App.4th 262, in which the appellate court held that Family Code section 3011(d) does not authorize a court to order drug testing. Test results would be confidential, as specified. The party subjected to testing would have the right to a hearing, if requested, to contest a positive result, and a positive result could not, by itself, constitute grounds for an adverse custody decision. Authority for testing expires January 1, 2008. Requires the Judicial Council to evaluate the implementation of these provisions and report to the Legislature.

### LOCAL CHILD SUPPORT AGENCIES

*AB 1704, COMMITTEE ON  
JUDICIARY, CH. 339  
CCP 724.060; FAM 4014, 5003;  
GOV 27282; W&I 827*

Makes numerous changes to provisions concerning child support enforcement. Requires the implementation of a rule of court concerning telephonic hearings in specified child support proceedings. Authorizes a local child support agency to inspect a juvenile proceedings case file, for specified purposes. Requires the Judicial Council to revise related forms by July 1, 2005.

### CHILD SUPPORT ASSIGNMENT ORDERS

*AB 1706, COMMITTEE ON  
JUDICIARY, CH. 369  
FAM 5290*

Prohibits an employer from using a child support wage assignment order as grounds for denying a promotion to an employee or taking any other action adversely affecting the terms and conditions of employment.

### FAMILY LAW AND DOMESTIC VIOLENCE PROCEEDINGS:

#### ATTORNEY FEES

*AB 2148, DIAZ, CH. 472  
FAM 2030, 2031, 3121, 6340,  
6341, 6344, 7605*

Sets a standard of reasonable need and ability to pay for determinations regarding attorney fees in family law matters. Requires the court to rule on a request for attorney fees within 15 days of the hearing on the motion or order to show cause. Authorizes the court to make spousal support orders under the Domestic Violence Prevention Act (DVPA). Requires the court when determining whether to make custody, visitation, or child and spousal support orders under the DVPA to consider the effect that failure to make an order will have on the safety of the protected person. Makes an award of attorney fees mandatory to the prevailing petitioner in a DVPA case when the respondent has the ability to pay those fees.

### RELEASE OF INFORMATION ABOUT MINORS

*AB 2228, GARCIA, CH. 574  
FAM 3111; PROB 1514.5; W&I  
204, 827*

Requires a family court to provide to the probate court in a guardianship proceeding, and requires a family court or a court in a guardianship proceeding to provide to the juvenile court, upon request, all available information the court deems necessary to make a determination regarding the best interest of a child, while protecting the confidentiality of that information. Exempts confidential family law mediations and dependency mediations from this requirement. Provides

that records shared under the bill may not be disclosed to any party in a case unless the party requests the originating agency or court to release the records and the request is granted.

### VISITATION BY A FORMER LEGAL GUARDIAN

*AB 2292, WOLK, CH. 301  
FAM 3105; PROB 1602*

Authorizes the court to grant reasonable visitation rights to a former legal guardian unless a dependency proceeding involving the child is ongoing. Authorizes the probate court when terminating a guardianship to make visitation orders for the former guardian.

### DOMESTIC PARTNERSHIPS

*AB 2580, GOLDBERG, CH. 947  
CCP 377.60; FAM 297.5, 299,  
299.3; GOV 14771*

Clarifies several provisions in or affected by the California Domestic Partner Rights and Responsibilities Act of 2003 to (1) designate the "date of registration of the domestic partnership" as the equivalent of the "date of marriage," as it relates to rights or duties of the partners; (2) make enforceable agreements between registered domestic partners entered into before January 1, 2005, if those agreements are executed and effective on or before June 30, 2005; and (3) require the state Department of General Services to revise the forms that use the terms spouse, husband, wife, mother, father, or marital status to contain references to state-registered domestic partnerships. Expands the class of persons eligible to sue for wrongful death to include those who were eligible to be domestic partners, even if they were not registered, under specified circumstances.

### ENFORCEMENT OF SUPPORT ORDERS

*AB 2669, GARCIA, CH. 305  
CCP 695.221; FAM 4009, 4504,  
17402*

Beginning January 1, 2009, revises the order in which a support payment is credited so that money is first credited against the current month's support, next against the principal amount of the judgment remaining unsatisfied, then against the accrued interest that remains unsatisfied. Eliminates the one year of retroactive support allowed in welfare cases and allows retroactive support only to the date of filing of the petition for support in all cases.

### RELINQUISHMENT FOR ADOPTION

*AB 2674, LENO, CH. 306  
FAM 8700*

Provides that a licensed adoption agency shall send a copy of a relinquishment by certified mail, return receipt, or overnight courier to the state Department of Social Services (DSS) no later than the end of the business day following the

signing of the relinquishment, and that the relinquishment shall be considered filed and final 10 business days after receipt by the department, unless a longer period is necessary due to pending court action or other cause beyond the control of DSS.

### CONFIDENTIALITY IN FAMILY COURT FILES

*SB 1284, MORROW, CH. 102  
FAM 3025.5*

Requires that psychological evaluations, child custody evaluations, recommending mediation reports, and minors' counsels' written statements of issues and contentions be kept in a confidential part of the family law file. Allows for disclosure to a party or the party's attorney, an attorney for the child, a law enforcement officer, or any other person upon an order of the court.

### COMMUNITY PROPERTY: SEPARATE PROPERTY CONTRIBUTIONS

*SB 1407, KUEHL, CH. 119  
FAM 2640*

Provides that in connection with the division of property on the dissolution of marriage a party shall be reimbursed for any separate property contributions to the separate property estate of the other spouse, including assets or debts, unless there has been a written transmutation or waiver of right to reimbursement. Reimbursement shall be not be adjusted for interest or change in monetary valuation, nor can it exceed the net value of the property at the time of the division. Responds to *Marriage of Cross* (2001) 94 Cal.App.4th 1143, which held that reimbursement was not authorized by statute.

## FINES, FEES, AND FORFEITURES

### COLLECTION OF FINES AND PENALTIES

*SB 246, ESCUTIA, CH. 380  
GOV 6159; PEN 1463.007;  
R&T 19280, 19283*

Permits courts and local governments to accept debit cards and electronic payments for specified payments. Expands the types of debts eligible for a comprehensive collection program and adds three components to the requirements of a program. Removes the sunset date of the Franchise Tax Board's Court-Ordered Debt Collections Program.



## JUDICIAL OFFICERS

### SAFETY OF JUDICIAL OFFICERS

AB 2905, SPITZER, CH. 248  
PEN 832.9

Provides that the governmental entity employing a judge or court commissioner, among others, shall reimburse moving and relocation expenses if it is necessary to move because of receipt of a credible threat that a life-threatening action may be taken against the judge or commissioner or his or her immediate family as a result of the judge or commissioner's employment.

### COURT OFFICERS

SB 1225, MORROW, CH. 49  
CCP 259; GOV 71601  
Conforms the language of Code of Civil Procedure section 259(e) to the standard articulated in the California Constitution regarding appointment of temporary judges. Revises the list of subordinate judicial officers to include child support commissioners, traffic trial commissioners, and juvenile hearing officers.

### JUDGES' RETIREMENT SYSTEM

SB 1603, COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT, CH. 231  
GOV VARIOUS SECTIONS  
Clarifies that active and retired judges may purchase service credit for active military service before membership in the Judges' Retirement System or Judges' Retirement System II by paying the full actuarial cost of the service credit.

## JUVENILE DELINQUENCY

### JUVENILE COURT: CRIMINAL HISTORY REPORTING

SB 1285, MARGETT, CH. 154  
PEN 13010.5

Requires the state Department of Justice to collect data pertaining to the juvenile justice system for criminal history and statistical purposes.

## JUVENILE DEPENDENCY

### NOTICE PROVISIONS

AB 44, PACHECO, CH. 20  
PEN 2625; W&I 294  
URGENCY, EFFECTIVE MARCH 5, 2004  
Corrects statutory changes created in error in 2002 regarding notice provisions in dependency cases. Provides that service of notice of a hearing to terminate parental rights shall be completed 30 days before

the date of the hearing in a case where publication is ordered. Codifies the holding in *In re Phillip F.* (2000) 78 Cal.App.4th 250 that notice for a continuation of a hearing to terminate parental rights may be by any means that the court determines is reasonably calculated to provide notice of the continued hearing.

### DUAL-STATUS CHILDREN

AB 129, COHN, CH. 468  
W&I 241.1, 241.2, 366.5, 387, 11401  
Authorizes any county probation department and child welfare services department to create a protocol that would permit a minor who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court. Requires the Judicial Council to evaluate the results of implementing the protocol and to report its findings to the Legislature.

### EDUCATION OF FOSTER CHILDREN

AB 1858, STEINBERG, CH. 914  
ED VARIOUS SECTIONS; H&S 1501.1; W&I 16014  
Requires that specified pupil data be kept for children in nonpublic, nonsectarian schools (NPSs) within group homes. Places new restrictions on NPSs located within group homes, including the requirement that the school certifies annually that each child needs to be in the NPS and a prohibition on requiring that children placed within the home be identified as needing special education services.

### CRIMINAL RECORD CHECKS OF FOSTER CARE PROVIDERS

AB 1913, COHN, CH. 373  
W&I 309, 319, 361.4  
Allows counties to grant a temporary exemption so that a foster care provider who has no criminal record, as reported by the California Law Enforcement Telecommunications System, can provide emergency foster care to a child who is a relative while the county awaits confirmation of the criminal background information via a fingerprint check.

### PLACEMENT OF CHILDREN: BACKGROUND CHECKS

AB 1986, WOLK, CH. 298  
W&I 361.4  
Extends until January 1, 2010, an existing provision that allows counties to issue a criminal records exemption with the permission of the state Department of Social Services. With the exemption, a child can be placed with a person who has a criminal record, based on convincing evidence that the person is of good character and does not present a risk of harm to the child.

### CHILD WELFARE SERVICES PROGRAM IMPROVEMENT FUND

AB 2496, SHIRLEY HORTON, CH. 168  
W&I 16524 ET SEQ.  
Creates a special fund for the receipt of private grants, gifts, or bequests for the purpose of enhancing the state's ability to provide a comprehensive support system that promotes positive outcomes for children and families.

### PSYCHOTROPIC MEDICATIONS

AB 2502, KEENE, CH. 329  
W&I 369.5  
Requires the juvenile court to approve or deny a request for the administration of psychotropic medication to a dependent child within seven court days.

### CASE PLANS; FAMILY MAINTENANCE SERVICES

AB 2795, WOLK, CH. 332  
W&I 636, 636.1, 11404, 16501.1, 16506  
Extends to 60 days the time period available to a probation officer or child welfare worker to complete a written case plan, in order to afford caseworkers the opportunity to engage the child and family and solicit their input. Allows family maintenance services to be provided for multiple six-month periods until the child reaches 18.

### DEPENDENT CHILDREN

AB 2807, STEINBERG, CH. 810  
W&I 366, 391, 16131.5  
ET SEQ.  
Revises provisions requiring the court to make orders to ensure that dependent children 10 years and older in a group-home placement maintain relationships with individuals consistent with the child's best interest to restrict their application to children who have been in a group home for six months or longer from the date the child entered foster care. Clarifies that the mandate for a visitation order or finding of detriment applies when the juvenile court establishes a permanent plan of either a guardianship or long-term foster care. Requires changes to rules of court consistent with these changes.

### COURT ADOPTION AND PERMANENCY MONTH

ACR 253, STEINBERG, RESOLUTION 179  
Proclaims November 2004 to be Court Adoption and Permanency Month, during which the courts and their local communities are encouraged to join together in activities to expedite permanency for children under the jurisdiction of the dependency court.

### BUDGET ACT OF 2004: DRUG COURTS

SB 1104, COMMITTEE ON BUDGET AND FISCAL REVIEW, CH. 229  
H&S 11970.2  
Subject to appropriation in the 2004–2005 Budget Act, authorizes the state Department of Alcohol and Drug Programs, in collaboration with the Judicial Council, to make supplemental allocations to counties receiving Comprehensive Drug Court Implementation Act funds for implementation or expansion of dependency drug court programs. Requires, as a condition of receiving funds, that grantees report specified outcomes, including foster care savings realized by the courts.

### PARENTING BY DEPENDENT CHILDREN

SB 1178, KUEHL, CH. 841  
W&I 16002.5, 16004.5  
Requires child welfare agencies to place dependent children who are parents in placements where they can be treated as a unit with their children whenever possible, to maintain the minors' parent-child relationships, and to provide services to support and preserve those relationships. The bill will be known as the Teen Parents in Foster Care Act.

### CHILD ABUSE REPORTING

SB 1313, KUEHL, CH. 842  
PEN 11165.3; W&I 16513  
ET SEQ.  
Makes numerous changes to the Child Abuse and Neglect Reporting Act (CANRA) as recommended by the CANRA task force. Clarifies that Court Appointed Special Advocates are mandated reporters.

### FOSTER CARE AND ADOPTION

SB 1357, SCOTT, CH. 858  
FAM 7660.5, 7907.5, 8502, 8802; W&I 293, 18965  
Allows a presumed father to waive his rights to notice for adoption proceedings as a substitute for relinquishment of parental rights. Authorizes foster parents, relative caregivers, or a representative of a child's tribe to attend meetings of multidisciplinary teams if the team deems it appropriate. Requires that notice of status review hearings to those caregivers include the information that the individual may address the court.

## PROBATE

### EDUCATIONAL REQUIREMENTS FOR CONSERVATORS AND GUARDIANS

*AB 1155, LIU, CH. 625  
PROB 2342.5, 2344, 2850*

Requires the Judicial Council, on or before January 1, 2006, to adopt a rule of court that specifies the qualifications of private professional conservators and guardians, including certain educational requirements. Requires the Judicial Council to consult with specified parties in formulating the rule and permits courts to waive the requirements in cases of undue hardship. Requires private professional conservators and private professional guardians, other than persons who are appointed as a guardian of the person only, to comply with these Judicial Council requirements and prohibits them from registering with the Statewide Registry if they fail to fulfill these educational requirements.

### CERTIFICATION OF TRUSTS; CHANGE OF TRUSTEE

*AB 1848, HARMAN, CH. 136  
PROB 18100.5, 18105, 18106, 18107, 18108*

Authorizes any person to record a certification of trust that relates to an interest in real property. Authorizes a successor trustee to execute and record an affidavit of change of trustee if title to an interest in real property is affected by a change of trustee. Requires the county recorder to index these documents and to impose any fee prescribed by law for recording and indexing these documents.

### INCAPACITY: PROTECTIVE PROCEEDINGS

*AB 1851, HARMAN, CH. 67  
PROB 3412, 3413, 3600–3604, 3610–3613*

Revises and recasts the provisions of law pertaining to the disposition of certain funds held for the benefit of a minor or incompetent person. Replaces the term “incompetent person” with the term “person with a disability” for the purpose of these provisions. Exempts from these provisions an adult with capacity who has no conservator, except as specified. Requires the court to maintain jurisdiction of the money and property of an individual who meets the definition of a person with a disability after he or she reaches 18 years of age, until terminated by the court.

### BONDS FOR TRUSTEES

*AB 1883, HARMAN, CH. 75  
PROB 15602*

Permits a court to require a trustee to post a bond to protect the interests of any person having an interest in the trust estate. Allows a court in compelling circumstances to excuse a bond requirement, change its

amount, release it, or permit the substitution of another bond when the trustee is appointed by the court.

### POSTHUMOUSLY CONCEIVED CHILDREN

*AB 1910, HARMAN, CH. 775  
VARIOUS CODES*

Provides that, for purposes of determining rights to property to be distributed upon the death of a decedent, a child of the decedent conceived after the death of the decedent, other than as a result of human cloning, shall be deemed to have been born in the lifetime of the decedent if the child or his or her representative proves by clear and convincing evidence that specified conditions are satisfied. Prohibits distribution of a decedent’s property or death benefits payable for two years under specified conditions.

### TRUSTEE LIABILITY

*AB 1990, CAMPBELL, CH. 538  
PROB 16461*

Provides that a provision in a trust relieving a trustee of liability if a beneficiary fails to object to an item in an interim or final account or other written report within a specified time period would be effective only if certain conditions were met, including the provision of a specified notice and a period within which a beneficiary may object of not less than 180 days. Among other things, prohibits a beneficiary who fails to object in writing to an account or report that complies with these requirements from asserting any claim against the trustee regarding an item that is adequately disclosed in the account or report, with specified exceptions.

### TRUSTS: NOTICES

*AB 2872, MADDOX, CH. 334  
PROB 17204*

Allows any interested party to request notice of court proceedings regarding a trust, in order to allow nonbeneficiary parties with legal interests at stake in a trust proceeding to better protect their interests. Requires the person to deliver a copy of such a request to the trustee. Provides that if such notice is personally delivered, the request is effective when it is delivered; if the request is mailed, it is effective when it is received.

### TRUSTS: NOTICES OF PROPOSED ACTION

*SB 1021, POOCHIGIAN, CH. 54  
PROB 16337, 16500 ET SEQ.*

Revises and recasts the provisions by which a trustee may give a notice of proposed action. Enlarges the circumstances under which a notice of proposed action could be used, the circumstances under which it is not to be used, to whom it is to be given, and the methods by which a beneficiary may object to a proposed action.

### STATEWIDE REGISTRY OF TRUSTEES

*SB 1248, BOWEN, CH. 548  
PROB 2850, 2851, 2854*

Amends the law governing the Statewide Registry to, among other things, discontinue the exemption from registration in the registry for trustees who administer fewer than six trusts at one time; exempt from registration any trustee who is serving for the benefit of no more than three people or families; allow courts to find reasonable grounds for not removing a trustee solely for failing to register by January 1, 2005; require courts to forward to the registry any finding by the court that a conservator, guardian, or trustee has not properly performed his or her duties when such finding results in a non-nominal surcharge or removal of that conservator, guardian, or trustee; and require the registry to provide to the public, upon written request, any information in its files that a conservator, guardian, or trustee has not properly performed his or her duties.

## STATE BAR AND PRACTICE OF LAW

### REGULATION OF LEGAL PROCEEDINGS

*AB 1711, COMMITTEE ON JUDICIARY, CH. 529  
B&P 5466, 6028, 6140.7, 17209, 17536.5*

Requires each person filing any paper in an unfair competition or unfair advertising claim in an appellate court to serve a copy of that paper, including all petitions and briefs, on the state Attorney General and on the district attorney of the county in which the case was first brought. Prohibits a private party from bringing a cause of action against an advertising display in place as of August 12, 2004, if the display has been in continuous existence at its current location for five years.

### STATE BAR MEMBERS’ RIGHTS

*AB 3080, COMMITTEE ON JUDICIARY, CH. 356  
B&P 6001*

Requires the State Bar to publicize to its members in the annual dues statement and other appropriate communications that its members have the right to limit the sale or disclosure of member information not reasonably related to regulatory purposes. Requires the State Bar to report, on or before May 1, 2005, to the Assembly and Senate Committees on Judiciary regarding the procedures it has in place to ensure that members can appropriately limit the use of their member information.

### STATE BAR ANNUAL MEMBERSHIP FEE

*SB 1490, COMMITTEE ON JUDICIARY, CH. 384  
B&P 6140*

Authorizes the State Bar of California to continue to collect up to \$310 as annual membership dues for 2005 (for a total of \$390, including additional specified fees) for active members.

## TRAFFIC

### TRAFFIC SIGNALS AND INTERRUPTIVE DEVICES

*AB 340, FROMMER, CH. 338  
VEH 21464, 42001*

Specifies that the existing prohibition against the use of devices capable of interrupting traffic control signals applies to mobile infrared transmitters. Increases the maximum fine from \$3,000 to \$5,000 for a willful violation of this prohibition when the violation does not result in injury or death. Makes it a crime to possess, manufacture, sell, offer for sale, or otherwise distribute devices capable of interrupting traffic control signals, including mobile infrared transmitters, except to those authorized to operate such devices.

### DRIVING-UNDER-THE-INFLUENCE STATEMENT

*AB 2173, PARRA, CH. 502  
VEH 23593*

Requires courts to provide a person convicted of a driving-under-the-influence offense with an advisory statement acknowledging the danger of drinking and driving and that a subsequent offense may result in a charge of murder if a person is killed as a result. Provides that the statement may be included in a plea form, if used. Requires the court to include that the advisement was given on the abstract of conviction submitted to the California Department of Motor Vehicles.

### EXCESSIVE SPEED: ENHANCEMENTS

*AB 2237, PARRA, CH. 300  
VEH 22348*

Increases the fine for a second conviction of driving in excess of 100 miles per hour within three years of a prior conviction to \$750. Increases the fine for a subsequent conviction that occurred within five years of two or more prior convictions to \$1,000.

### VEHICLES: WIRELESS TELEPHONES

*AB 2785, NAKANO, CH. 505  
VEH 23125*

Makes it an infraction to drive a schoolbus or transit vehicle while using a wireless telephone. Provides an exception for phone use for work-related purposes or in the event of an emergency. Specifies that a violation of this new offense does not constitute a serious traffic violation for the purposes of the commercial motor vehicle safety program.



**COMMERCIAL VEHICLES: TRAFFIC VIOLATOR SCHOOL**  
*AB 3049, COMMITTEE ON TRANSPORTATION, CH. 952 VEH 1803.5, 41501, 42005 DELAYED, EFFECTIVE SEPTEMBER 20, 2005*  
Specifies that a court may not order or permit a commercial driver's license holder to complete a traffic violator school (TVS) course in lieu of adjudicating any traffic offense. Similarly specifies that a court may not order or permit a person who commits a Vehicle Code violation in a commercial vehicle to complete a TVS in lieu of adjudicating any traffic offense, regardless of the driver's license class.

**TRAFFIC VIOLATORS: JUDICIAL COUNCIL REPORT**  
*SB 1269, MORROW, CH. 665 VEH 11205.4*  
Requires the Judicial Council, by June 1, 2005, to (1) collect information from each superior court on whether and how the court works with traffic violator schools, home study programs, and court assistance programs (CAPs); (2) collect information from each superior court on

whether the court contracts with a CAP and, if so, how the CAP fee is set and what services are funded by the CAP fee; (3) develop a report with the collected information that provides a clear understanding of the current system of traffic violator fees; (4) recommend one or more approaches to setting a fiscal policy for CAP fees charged to traffic violators who have chosen to, or have been ordered to, attend traffic violator school; and (5) provide copies of the report and recommendations to the public on payment of copying and postage fees.

**VEHICLES: MOTOR VEHICLE SPEED CONTEST: PUNISHMENT**  
*SB 1541, MARGETT, CH. 595 VEH 13352, 23109*  
Requires a person convicted of engaging in a motor vehicle speed contest to perform 40 hours of community service and to provide proof of financial responsibility as a condition of regaining his or her driver's license.

**SANCTIONS FOR DRIVING UNDER THE INFLUENCE**  
*SB 1694, TORLAKSON, CH. 550 VEH 13352, 13352.6 23540, 23546, 23550, 23560, 23566, 23622*  
Increases the time from 7 years to 10 years during which a prior driving-under-the-influence (DUI) conviction may increase the sanctions for a current conviction. Requires the court to order a DUI offender to attend an alcohol and drug problem assessment program if the offender had a DUI conviction or a disorderly conduct conviction due to public intoxication more than 10 years before the current DUI conviction. Requires the court to rely on certain information and records regarding the existence of the prior conviction. Requires the court to order participation in an alcohol and drug problem assessment program for a current DUI offender if the offender had a prior DUI conviction in the past 10 years regardless of whether the offender participated in a program as a result of the prior conviction.

**DRIVER'S LICENSE SANCTIONS FOR DRIVING UNDER THE INFLUENCE**  
*SB 1697, TORLAKSON, CH. 551 VEH VARIOUS SECTIONS*  
Consolidates all sanctioning authority regarding the suspension or restriction of driver's licenses for DUI violations with the California Department of Motor Vehicles.

**DRIVER'S LICENSE VIOLATIONS: REFERRAL PROGRAM**  
*SB 1848, ASHBURN, CH. 594 VEH 14601.9*  
*URGENCY, EFFECTIVE SEPTEMBER 18, 2004*  
Reauthorizes district attorneys and city attorneys in specified counties to establish programs in which persons convicted of driving with suspended or revoked licenses may, with the approval of the court, participate. Provides that the authorized programs include home detention with electronic monitoring in lieu of jail time.

## How a Bill Becomes Law: Overview of the Legislative Process

The process of government by which bills are considered and laws enacted by the California State Legislature is commonly referred to as the legislative process. The California State Legislature is made up of two houses: the Senate and the Assembly. There are 40 senators and 80 Assembly members representing the people of the state of California. The Legislature maintains a legislative calendar governing the introduction and processing of the legislative measures during its two-year regular session.

**IDEA**  
All legislation begins as an idea or concept. Ideas and concepts can come from a variety of sources. The process begins when a senator or Assembly member decides to author a bill.

**THE AUTHOR**  
A legislator sends the idea for the bill to the Office of the Legislative Counsel, where it is drafted into bill form. The draft of the bill is returned to the legislator for introduction. If the author is a senator, the bill is introduced in the Senate. If the author is an Assembly member, the bill is introduced in the Assembly.

**FIRST READING/INTRODUCTION**  
A bill is introduced or read the first time when the bill number, the name of the author, and the descriptive title of the bill are read on the floor of the house. The bill is then sent to the Office of State Publishing. No bill except the Budget Bill may be acted upon until 30 days have passed from the date of its introduction.

**COMMITTEE HEARINGS**  
After introduction, a bill goes to the rules committee of the house, where it is assigned to the appropriate policy committee for its first hearing. Bills are assigned to policy committees according to subject area. For example, a Senate bill dealing with health care facilities would first be assigned to the Senate

Health and Human Services Committee for policy review. Bills that require the expenditure of funds must also be heard in the fiscal committees, Senate Appropriations and Assembly Appropriations. Each committee is made up of a specified number of senators or Assembly members.

During the committee hearing the author presents the bill to the committee, and testimony may be heard in support or opposition to the bill. The committee then votes on whether to pass the bill out of committee, or that it be passed as amended. Bills may be amended several times. It takes a majority vote of the committee membership for a bill to be passed and sent to the next committee or to the floor. Each house maintains a schedule of legislative committee hearings. Prior to a bill's hearing, a bill analysis is prepared that explains the intended effect of the bill on current law, together with background information. Typically the analysis also lists organizations that support or oppose the bill.

**SECOND AND THIRD READING**  
Bills passed by committees are read a second time on the floor in the house of origin and then assigned to third reading. Bill analyses are also prepared prior to third reading. When a bill is read the third time it is explained by the author, discussed by the members, and voted on by a roll call vote. Bills that require an appropriation, or that take effect immediately, ordinarily require 27 votes in the Senate and 54 votes in the Assembly to be passed. Other bills generally require 21 votes in the Senate and 41 votes in the Assembly. If a bill is defeated, the member may seek reconsideration and another vote.

**REPEAT PROCESS IN THE OTHER HOUSE**  
Once the bill has been approved by the house of origin, it proceeds to the other house where the procedure described above is repeated.

**RESOLUTION OF DIFFERENCES**  
If a bill is amended in the second house, it must go back to the house of origin for concurrence, meaning agreement on those amendments. If the house of origin does not concur in those amendments, the bill is referred to a two-house conference committee to resolve the differences. Three members of the committee are from the Senate and three are from the Assembly. If a compromise is reached, the bill is returned to both houses for a vote.

**GOVERNOR**  
If both houses approve a bill, it goes to the Governor. The Governor has three choices: sign the bill into law, allow it to become law without his or her signature, or veto it. A governor's veto can be overridden by a two-thirds vote in both houses.

Most enacted bills go into effect on the first day of January of the next year. Urgency bills, and certain other measures, take effect immediately after they are enacted into law.

**CALIFORNIA LAW**  
Each bill that is passed by the Legislature and approved by the Governor is assigned a chapter number by the Secretary of State. These chaptered bills are statutes and ordinarily become part of the California Codes. The California Codes are a comprehensive collection of laws grouped by subject matter. The California Constitution sets forth the fundamental laws by which the State of California is governed. All amendments to the California Constitution come about as a result of constitutional amendments approved by the voters at a statewide election.

Source: Legislative Counsel, State of California  
[www.leginfo.ca.gov/guide.html](http://www.leginfo.ca.gov/guide.html)

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